

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Case No. 1:22-CV-568

JULIETTE GRIMMETT, RALSTON LAPP )  
GUINN MEDIA GROUP, )  
JOSH STEIN FOR ATTORNEY GENERAL )  
CAMPAIGN, JOSH STEIN, )  
SETH DEARMIN, and ERIC STERN )

Plaintiffs, )

v. )

N. LORRIN FREEMAN in her official )  
capacity as District Attorney for the )  
10th Prosecutorial District )  
of the State of North Carolina, )

Defendant. )

**PLAINTIFFS' RESPONSE  
TO MOTION TO DISMISS**

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Plaintiffs Juliette Grimmer, Ralston Lapp Guinn Media Group, the Josh Stein for Attorney General Campaign, Josh Stein, Seth Dearmin, and Eric Stern, by and through their undersigned counsel, hereby respond to Defendant's Motion to Dismiss, filed on March 26, 2023.

In her Motion to Dismiss, Defendant contends that this action is now moot because she has closed her investigation into Plaintiffs and has no intention of seeking to enforce N.C. Gen. Stat. § 163-274(a)(9) against Plaintiffs (*see* Doc. # 58-1). She has also provided a judicial admission that the statute of limitations against Plaintiffs has run and N.C. Gen. Stat. § 163-274(a)(9) can no longer be enforced against Plaintiffs. (*See* Doc. # 58, at 1-2.)

Finally, Defendant has recognized that under the ruling of the United States Court of Appeals for the Fourth Circuit, N.C. Gen. Stat. § 163-274(a)(9) is "likely unconstitutional" because it violates the First Amendment of the United States

Constitution, *Grimmett v. Freeman*, No. 22-1844, slip op. (4th Cir. Feb. 8, 2023) (Doc. # 52), at 6, and “the likelihood of *any* prosecution under the Statute in the future for *any* political ad, is not just unlikely, but virtually impossible.” (Doc. # 58, at 11 (emphasis in original)).

For those reasons, Plaintiffs agree with Defendant that the case is moot and can appropriately be dismissed.

This the 11th day of April, 2023.

By: /s/ Pressly M. Millen  
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State Bar No. 16178  
Raymond M. Bennett  
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